

HONORABLE SALVADOR MENDOZA, JR.

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Officer Justin DeRosier

IN UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

TYLER JAMES THOMAS LANKFORD,

Plaintiff,

vs.

CITY OF PULLMAN; COUNTY OF
WHITMAN; STATE OF WASHINGTON;
OFFICER JOSHUA BRAY; OFFICER
BRIAN CHAMBERLAIN; DETECTIVE
TODD DOW; OFFICER ALEX
GORDON; SERGEANT SAM SOREM;
OFFICER GREG UMBRIGHT; OFFICER
JUSTIN DEROSIER, OFFICER MIKE
PETLOVANY and DOES I-X,

Defendants.

Case No. 2:16-CV-0377-SMJ

**DEFENDANT WHITMAN
COUNTY'S ANSWER TO
PLAINTIFF'S FIRST
AMENDED COMPLAINT
AND AFFIRMATIVE
DEFENSES**

COME NOW Defendants WHITMAN COUNTY and DEPUTY JUSTIN
DEROSIER, by and through their attorney of record, Michael E. McFarland, Jr.,
of Evans, Craven & Lackie, and demand this case be tried by a jury and enter

WHITMAN COUNTY ANSWER - page 1

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1 this Answer to Plaintiff's Complaint as follows:

2
3 **I. INTRODUCTION**

4 1. These answering Defendants acknowledge that this is an action for
5 damages against Defendants, but deny any intentional, reckless, conscious
6 disregard for the First, Fourth and Fourteenth Amendment rights of Plaintiff or
7 the deprivation of his liberty and civil and constitutional rights. These answering
8 Defendants deny all allegations of liability, as well as the existence, nature and
9 extent of Plaintiff's claimed injuries and damages.
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11
12

13 **II. JURISDICTION**

14 2. Admit.

15 3. Admit.

16
17 **III. VENUE**

18 4. These answering Defendants deny committing any unlawful acts or
19 practices, but admit that the events giving rise to this suit occurred in the City of
20 Pullman and that venue in the United States District Court for the Eastern
21 District of Washington is appropriate.
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25 **IV. PARTIES**

26 5. These answering Defendants are without sufficient information to
27 admit or deny the allegations contained in
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30 WHITMAN COUNTY ANSWER - page 2

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1 Paragraph 5 of Plaintiff's Complaint and therefore deny the same.

2 6. Admit.

3 7. Admit.

4 8. Admit.

5 9. These answering Defendants admit that Joshua Bray is an officer
6 with the Pullman Police Department. The remaining allegations contained in
7 Paragraph 9 of Plaintiff's Complaint constitute legal conclusions to which no
8 response is deemed necessary.
9

10 10. These answering Defendants admit that Brian Chamberlain is an
11 officer with the Pullman Police Department. The remaining allegations contained
12 in Paragraph 10 of Plaintiff's Complaint constitute legal conclusions to which no
13 response is deemed necessary.
14

15 11. These answering Defendants admit that Todd Dow is an officer with
16 the Pullman Police Department. The remaining allegations contained in
17 Paragraph 11 of Plaintiff's Complaint constitute legal conclusions to which no
18 response is deemed necessary.
19

20 12. These answering Defendants admit that Alex Gordon is an officer
21 with the Pullman Police Department. The remaining allegations contained in
22 Paragraph 12 of Plaintiff's Complaint constitute
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30 WHITMAN COUNTY ANSWER - page 3

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1 legal conclusions to which no response is deemed necessary.

2
3 13. These answering Defendants admit that Sam Sorem is an officer
4 with the Pullman Police Department. The remaining allegations contained in
5 Paragraph 13 of Plaintiff's Complaint constitute legal conclusions to which no
6 response is deemed necessary.
7

8
9 14. These answering Defendants admit that Greg Umbright is an officer
10 with the Pullman Police Department. The remaining allegations contained in
11 Paragraph 14 of Plaintiff's Complaint constitute legal conclusions to which no
12 response is deemed necessary.
13

14
15 15. Defendants admit that, at the time of Tyler Lankford's arrest, Justin
16 DeRosier was a deputy with the Whitman County Sheriff's Office. The
17 remaining allegations in Paragraph 15 constitute legal conclusions, to which a
18 response is not necessary. To the extent a response is deemed necessary, the
19 answering Defendants admit that Deputy DeRosier was acting in the course and
20 scope of his employment at the time of the incidents alleged herein.
21
22

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24 16. These answering Defendants admit that Mike Petlovany is an officer
25 with the Washington State University Police. The remaining allegations
26 contained in Paragraph 17 of Plaintiff's Complaint constitute legal conclusions to
27 which no response is deemed necessary.
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30 WHITMAN COUNTY ANSWER - page 4

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1 17. Paragraph 17 of Plaintiff's Complaint does not set forth facts to
2 which a response can be made. These answering Defendants deny any allegation
3 of liability that may be contained in Paragraph 17.
4

5 18. Paragraph 18 of Plaintiff's Complaint constitute legal conclusions to
6 which a response is not necessary. To the extent a response is deemed necessary,
7 Defendants deny all allegations of liability, as well as the existence, nature and
8 extent of Plaintiff's claimed injuries and damages.
9
10

11 **V. ADMINISTRATIVE PROCEEDINGS**
12

13 19. Defendants are without sufficient information to admit or deny the
14 allegations contained in Paragraph 19 of Plaintiff's Complaint and therefore deny
15 the same.
16

17 20. Defendants admit Whitman County received a claim form from
18 Plaintiff's attorney Darryl Parker and that the letter accompanying the form is
19 dated August 12, 2016.
20

21 21. Defendants are without sufficient information to admit or deny the
22 allegations contained in Paragraph 21 of Plaintiff's Complaint and therefore deny
23 the same.
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30 WHITMAN COUNTY ANSWER - page 5

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VI. STATEMENT OF FACTS

22. These answering Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 22 of Plaintiff's Complaint and therefore deny the same.

23. These answering Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 23 of Plaintiff's Complaint and therefore deny the same.

24. These answering Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 24 of Plaintiff's Complaint and therefore deny the same.

25. Admit.

26. These answering Defendants admit a SRT team was present at the hotel Lankford was staying in, and an officer telephoned Lankford's room. Defendants deny all else for lack of sufficient knowledge.

27. These answering Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 27 of Plaintiff's Complaint and therefore deny the same.

28. These answering Defendants admit Lankford was taken into

1 custody, but deny all else for lack of sufficient knowledge.

2 29. Admit.

3
4 30. These answering Defendants admit a search warrant was applied
5 for, but deny all else for lack of sufficient knowledge.
6

7 31. Deny.

8
9 32. These answering Defendants admit that Mr. Lankford was arrested,
10 transported to the Whitman County Jail, and charged with felony harassment.
11 These answering Defendants also admit that Mr. Lankford was later charged
12 with possession of a controlled substance. These answering Defendants deny all
13 else for lack of sufficient knowledge.
14
15

16 33. Admit.

17
18 34. These answering Defendants deny all allegations contained in
19 Paragraph 34 of Plaintiff's First Amended Complaint.
20

21 35. Deny.

22 **VII. FIRST CLAIM FOR RELIEF**

23
24 36. These answering Defendants reassert their answers to the
25 allegations contained in Paragraphs 1-35 of Plaintiff's First Amended Complaint.
26

27 37. Deny.

28 38. Deny.

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30 WHITMAN COUNTY ANSWER - page 7

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1 39. Deny.

2 **VIII. SECOND CLAIM FOR RELIEF**

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4 40. These answering Defendants reassert their answers to the
5 allegations contained in paragraphs 1-39 of Plaintiff's First Amended Complaint.

6
7 41. Deny.

8 42. Admit.

9
10 43. These answering Defendants are without sufficient information to
11 admit or deny the allegations contained in Paragraph 43 of Plaintiff's First
12 Amended Complaint, and therefore deny the same. Further, the allegations
13 contained in Paragraph 43 are not directed at the answering Defendants. To the
14 extent Paragraph 43 asserts liability against these answering Defendants, such
15 allegations are denied.

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19 44. These answering Defendants are without sufficient information to
20 admit or deny the allegations contained in Paragraph 44 of Plaintiff's First
21 Amended Complaint, and therefore deny the same. Further, the allegations
22 contained in Paragraph 44 are not directed at the answering Defendants. To the
23 extent Paragraph 44 asserts liability against these answering Defendants, such
24 allegations are denied.

25
26
27 45. Deny.

1 **IX. THIRD CLAIM FOR RELIEF**

2 46. These answering Defendants reassert their answers to the
3 allegations contained in paragraphs 1-45 of Plaintiff's First Amended Complaint.
4

5 47. These answering Defendants are without sufficient information to
6 admit or deny the allegations contained in Paragraph 47 of Plaintiff's First
7 Amended Complaint, and therefore deny the same. Further, the allegations
8 contained in Paragraph 47 are not directed at the answering Defendants. To the
9 extent Paragraph 47 asserts liability against these answering Defendants, such
10 allegations are denied.
11

12 48. These answering Defendants are without sufficient information to
13 admit or deny the allegations contained in Paragraph 47 of Plaintiff's First
14 Amended Complaint, and therefore deny the same. Further, the allegations
15 contained in Paragraph 48 are not directed at the answering Defendants. To the
16 extent Paragraph 48 asserts liability against these answering Defendants, such
17 allegations are denied
18

19 49. These answering Defendants are without sufficient information to
20 admit or deny the allegations contained in Paragraph 49 of Plaintiff's First
21 Amended Complaint, and therefore deny the same. Further, the allegations
22 contained in Paragraph 49 are not directed at the
23

1 answering Defendants. To the extent Paragraph 49 asserts liability against these
2 answering Defendants, such allegations are denied. These answering Defendants
3 further deny the existence, nature and extent of Plaintiff's claimed injuries and
4 damages.
5

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7 50. These answering Defendants are without sufficient information to
8 admit or deny the allegations contained in Paragraph 49 of Plaintiff's First
9 Amended Complaint, and therefore deny the same. Further, the allegations
10 contained in Paragraph 50 are not directed at the answering Defendants. To the
11 extent Paragraph 50 asserts liability against these answering Defendants, such
12 allegations are denied. These answering Defendants further deny the existence,
13 nature and extent of Plaintiff's claimed injuries and damages.
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17 51. Paragraph 51 of Plaintiff's Complaint constitute legal conclusions to
18 which a response is not necessary. To the extent a response is deemed necessary,
19 Defendants deny Paragraph 51.
20
21

22 **X. FOURTH CLAIM FOR RELIEF**

23
24 52. These answering Defendants reassert their answers to the
25 allegations contained in paragraphs 1-51 of Plaintiff's First Amended Complaint.
26

27 53. These answering Defendants are without sufficient information to
28 admit or deny the allegations contained in
29

1 Paragraph 53 of Plaintiff's First Amended Complaint, and therefore deny the
2 same. Further, the allegations contained in Paragraph 53 are not directed at the
3 answering Defendants. To the extent Paragraph 53 asserts liability against these
4 answering Defendants, such allegations are denied.
5
6

7 54. These answering Defendants are without sufficient information to
8 admit or deny the allegations contained in Paragraph 54 of Plaintiff's First
9 Amended Complaint, and therefore deny the same. Further, the allegations
10 contained in Paragraph 54 are not directed at the answering Defendants. To the
11 extent Paragraph 54 asserts liability against these answering Defendants, such
12 allegations are denied. These answering Defendants further deny the existence,
13 nature and extent of Plaintiff's claimed injuries and damages.
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18 **XI. FIFTH CLAIM FOR RELIEF**

19 55. These answering Defendants reassert their answers to the
20 allegations contained in paragraphs 1-54 of Plaintiff's First Amended Complaint.
21

22 56. Admit.
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24 57. These answering Defendants are without sufficient information to
25 admit or deny the allegations contained in Paragraph 57 of Plaintiff's First
26 Amended Complaint, and therefore deny the same. Further, the allegations
27 contained in Paragraph 57 are not directed at the
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1 answering Defendants. To the extent Paragraph 57 asserts liability against these
2 answering Defendants, such allegations are denied.
3

4 58. These answering Defendants are without sufficient information to
5 admit or deny the allegations contained in Paragraph 58 of Plaintiff's First
6 Amended Complaint, and therefore deny the same. Further, the allegations
7 contained in Paragraph 58 are not directed at the answering Defendants. To the
8 extent Paragraph 58 asserts liability against these answering Defendants, such
9 allegations are denied.
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12 59. These answering Defendants are without sufficient information to
13 admit or deny the allegations contained in Paragraph 58 of Plaintiff's First
14 Amended Complaint, and therefore deny the same. Further, the allegations
15 contained in Paragraph 58 are not directed at the answering Defendants. To the
16 extent Paragraph 58 asserts liability against these answering Defendants, such
17 allegations are denied.
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20 60. These answering Defendants are without sufficient information to
21 admit or deny the allegations contained in Paragraph 60 of Plaintiff's First
22 Amended Complaint, and therefore deny the same. Further, the allegations
23 contained in Paragraph 60 are not directed at the answering Defendants. To the
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1 extent Paragraph 60 asserts liability against these answering Defendants, such
2 allegations are denied.
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4 61. These answering Defendants are without sufficient information to
5 admit or deny the allegations contained in Paragraph 61 of Plaintiff's First
6 Amended Complaint, and therefore deny the same. Further, the allegations
7 contained in Paragraph 61 are not directed at the answering Defendants. To the
8 extent Paragraph 61 asserts liability against these answering Defendants, such
9 allegations are denied.
10
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12 62. These answering Defendants are without sufficient information to
13 admit or deny the allegations contained in Paragraph 62 of Plaintiff's First
14 Amended Complaint, and therefore deny the same. Further, the allegations
15 contained in Paragraph 62 are not directed at the answering Defendants. To the
16 extent Paragraph 62 asserts liability against these answering Defendants, such
17 allegations are denied.
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20 63. These answering Defendants are without sufficient information to
21 admit or deny the allegations contained in Paragraph 63 of Plaintiff's First
22 Amended Complaint, and therefore deny the same. Further, the allegations
23 contained in Paragraph 63 are not directed at the answering Defendants. To the
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1 extent Paragraph 63 asserts liability against these answering Defendants, such
2 allegations are denied.
3

4 **XII. SIXTH CLAIM FOR RELIEF**

5 64. These answering Defendants reassert their answers to the
6 allegations contained in paragraphs 1-63 of Plaintiff's First Amended Complaint.
7

8 65. The allegations in Paragraph 65 of Plaintiff's First Amended
9 Complaint regarding duty constitute legal conclusions, to which no response is
10 required. To these extent a response is required, answering Defendants deny the
11 allegations. These answering Defendants deny the remaining allegations in
12 Paragraph 65 of Plaintiff's First Amended Complaint.
13

14 66. These answering Defendants deny all allegations contained in
15 Paragraph 66 that are directed at the answering Defendants.
16

17 67. These answering Defendants are without sufficient information to
18 admit or deny the allegations contained in Paragraph 67 of Plaintiff's First
19 Amended Complaint, and therefore deny the same. Further, the allegations
20 contained in Paragraph 67 are not directed at the answering Defendants. To the
21 extent Paragraph 67 asserts liability against these answering Defendants, such
22 allegations are denied.
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1 68. These answering Defendants deny all allegations contained in
2 Paragraph 68 that are directed at the answering Defendants.
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4 69. These answering Defendants deny all allegations contained in
5 Paragraph 69 that are directed at the answering Defendants.
6

7 70. These answering Defendants deny all allegations contained in
8 Paragraph 70 that are directed at the answering Defendants.
9

10 71. These answering Defendants deny all allegations contained in
11 Paragraph 71 that are directed at the answering Defendants.
12

13 72. These answering Defendants deny all allegations contained in
14 Paragraph 72 that are directed at the answering Defendants.
15

16 73. These answering Defendants deny all allegations contained in
17 Paragraph 73 that are directed at the answering Defendants.
18

19 74. These answering Defendants deny all allegations contained in
20 Paragraph 74 that are directed at the answering Defendants.
21

22 **XIII. SEVENTH CLAIM FOR RELIEF**
23

24 75. These answering Defendants reassert their answers to the
25 allegations contained in paragraphs 1-74 of Plaintiff's First Amended Complaint.
26

27 76. These answering Defendants admit that Deputy DeRosier was
28
29

1 acting in the course and scope of his employment at the time of the incidents
2 alleged herein.
3

4 **XIV. EIGHTH CLAIM FOR RELIEF**

5 77. These answering Defendants reassert their answers to the
6 allegations contained in paragraphs 1-76 of Plaintiff's First Amended Complaint.
7

8 78. These answering Defendants deny all allegations contained in
9 Paragraph 78 that are directed at these answering Defendants.
10

11 **XV. NINTH CLAIM FOR RELIEF**

12 79. These answering Defendants reassert their answers to the
13 allegations contained in paragraphs 1-78 of Plaintiff's First Amended Complaint.
14

15 80. These answering Defendants deny all allegations contained in
16 Paragraph 80 that are directed at these answering Defendants.
17

18 **XVI. TENTH CLAIM FOR RELIEF**

19 81. These answering Defendants reassert their answers to the
20 allegations contained in paragraphs 1-80 of Plaintiff's First Amended Complaint.
21

22 82. These answering Defendants deny all allegations contained in
23 Paragraph 82 that are directed at these answering Defendants.
24

25 83. These answering Defendants deny all allegations contained in
26

1 Paragraph 83 that are directed at these answering Defendants.

2
3 **FIRST AFFIRMATIVE DEFENSE**

4 That all of Plaintiff's claims against the individual Defendant Justin
5 DeRosier are barred by the doctrine of qualified immunity.
6

7 **SECOND AFFIRMATIVE DEFENSE**

8 That all of Plaintiff's claims against Defendants are without merit because
9
10 probable cause existed for the issuance of the search warrant and Lankford's
11
12 arrest.

13 **THIRD AFFIRMATIVE DEFENSE**

14 These answering Defendants did not violate any of Plaintiff's
15
16 constitutional or federally protected rights.
17

18 **FOURTH AFFIRMATIVE DEFENSE**

19 All actions of these answering Defendants were performed in good faith,
20
21 were reasonable, based on probable cause, and were within these Defendants
22
23 lawful authority.

24 **FIFTH AFFIRMATIVE DEFENSE**

25 Whitman County does not have any municipal or "official capacity"
26
27 liability under 42 USC §1983 based upon *Monell v. NY Dept. of Social Services*,
28
29 436 US 658 (1978).

30 WHITMAN COUNTY ANSWER - page 17

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1 **SIXTH AFFIRMATIVE DEFENSE**

2 Plaintiff's false arrest claims are barred by the existence of probable cause.

3 **SEVENTH AFFIRMATIVE DEFENSE**

4
5 Plaintiff's state law claims are barred by the existence of probable cause,
6
7 lawful authority and privilege.

8 **EIGHTH AFFIRMATIVE DEFENSE**

9
10 Plaintiff's claims against these answering Defendants are barred, in whole
11
12 or in part, by immunity under RCW 71.05.120.

13 **NINTH AFFIRMATIVE DEFENSE**

14
15 Plaintiff's claims are barred, in whole or in part, by immunity under RCW
16
17 9A.46.090.

18 **TENTH AFFIRMATIVE DEFENSE**

19 Plaintiffs have failed to state a claim against these answering Defendants.

20
21 Wherefore, having fully answered Plaintiff's First Amended Complaint
22
23 herein, these answering Defendants pray that the same be dismissed with
24
25 prejudice, that Plaintiff take nothing thereby, and that these answering
26
27 Defendants be awarded their costs and attorney's fees under 42 USC §1988 and
28
29 RCW 4.24.350, and such other relief as the court may deem just and equitable.

1 DATED this 26th day of May, 2017.

2
3 EVANS, CRAVEN & LACKIE, P.S.
4

5
6 By: s/ Michael E. McFarland, Jr.
7 MICHAEL E. McFARLAND, JR., #23000
8 Attorneys for Defendants Whitman County
9 and Officer Justin DeRosier
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CERTIFICATE OF SERVICE

I hereby certify that on May 26, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Counsel for Plaintiff

Darryl Parker
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